

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

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| IN RE: OFFICE OF CONSUMER ADVOCATE, Complainant, vs. BUSINESS NETWORK LONG DISTANCE, INC., Respondent. | DOCKET NO. FCU-04-35 |
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**ORDER DOCKETING FOR FORMAL PROCEEDING AND
SETTING DEADLINE FOR RESPONSE**

(Issued September 9, 2004)

On August 3, 2004, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed with the Utilities Board (Board) a petition for a proceeding to consider a civil penalty pursuant to Iowa Code § 476.103 (2003), asking that the Board review the proposed resolution in C-04-161, involving Business Network Long Distance, Inc. (BNLD), and consider the possibility of assessing a civil penalty pursuant to Iowa Code § 476.103(4)"a." Based upon the record assembled in the informal complaint proceedings (which is a part of the record in this proceeding pursuant to 199 IAC 6.7), it appears the events to date can be summarized as follows:

On June 18, 2004, Gail Edwards of Homz Management Corporation (Homz) of Bettendorf, Iowa, submitted a complaint to the Board alleging that BNLD switched the long distance carrier for Homz without authorization. Board staff identified the matter as C-04-161 and, pursuant to Board rules, on June 23, 2004, forwarded the complaint to BNLD for response within ten days.

BNLD filed its response to the complaint on July 6, 2004, stating that one of its call centers contacted a Betty Sands at Homz regarding long distance service. BNLD provided a copy of the recording of the third-party verification. The recording indicates that the call to Ms. Sands was made on April 27, 2004. BNLD stated that Ms. Sands provided her date of birth for verification purposes. BNLD also indicated that the account for Homz was canceled as of June 29, 2004, and that Homz was credited for the cost of calls made before the account was canceled and for the cost of switching the service. Board staff forwarded the verification recording to Homz.

Ms. Sands listened to the recording and informed Board staff that it was not her voice on the recording, that the address given to the verifier was not current, and that the date of birth was not correct.

On July 22, 2004, Board staff issued a proposed resolution describing these events and concluding that BNLD switched the service without proper authorization. The proposed resolution indicated that staff had listened to the recording, had talked with Ms. Sands, and concluded that none of the voices on the recording matched Ms. Sands' voice. The proposed resolution noted that BNLD canceled the service and issued full credit for the service in the amount of \$100.97 plus \$10.00 to cover the change in carrier fees.

In its August 3, 2004, petition, Consumer Advocate asserts that a civil penalty should be imposed against BNLD to deter future slamming violations. Consumer Advocate requests that the Board docket this complaint for formal proceeding. BNLD has not responded to Consumer Advocate's petition.

The Board has reviewed the record to date and finds there is sufficient information to warrant further investigation into this matter. The Board will delay establishing a procedural schedule until October 4, 2004, and allow BNLD an opportunity to respond to the allegations raised in Consumer Advocate's petition.

IT IS THEREFORE ORDERED:

1. The "Petition for Proceeding to Consider Civil Penalty" filed by the Consumer Advocate Division of the Department of Justice on August 3, 2004, is granted and docketed for formal proceeding.

2. Business Network Long Distance, Inc., is directed to file a response to Consumer Advocate's petition on or before October 4, 2004.

UTILITIES BOARD

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 9th day of September, 2004.